

## **103 KAR 17:060. Income subject to taxation; portions.**

RELATES TO: KRS 141.010, 141.020

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. KRS 141.020 establishes the income tax requirements for residents and nonresidents. This administrative regulation prescribes methods of determining the Kentucky portion of certain income tax deductions of nonresidents and part-year residents.

Section 1. Residents. The entire net income of a full-year resident individual shall be subject to Kentucky income tax regardless of its source. Income from out-of-state sources shall not be exempt. The adjustments to gross income and itemized deductions allowed under KRS 141.010(10) and (11) of a full-year resident shall not be limited to those paid in Kentucky.

Section 2. Persons Becoming Residents During the Year. (1) Persons who become Kentucky residents during the year shall be subject to Kentucky individual income tax upon their entire net incomes from any source after becoming Kentucky residents and upon their incomes from Kentucky sources prior to becoming Kentucky residents.

(2) Except as provided in Section 6 of this administrative regulation for net operating loss deductions, persons who become residents during the year shall be limited to either:

(a) Adjustments to gross income and itemized deductions allowed pursuant to KRS 141.010(10) and (11) paid after becoming Kentucky residents; or

(b) That portion of total adjustments to gross income and itemized deductions that Kentucky income bears to total income.

Section 3. Persons Becoming Nonresidents During the Year. (1) Persons who are Kentucky residents, but become nonresidents during the year, shall be subject to Kentucky individual income tax upon their entire net incomes from all sources while they are Kentucky residents, and upon their incomes from Kentucky sources after becoming nonresidents.

(2) Except as provided in Section 6 of this administrative regulation for net operating loss deductions, persons who become nonresidents during the year shall be limited to either:

(a) Adjustments to gross income and itemized deductions allowed pursuant to KRS 141.010(10) and (11) paid while a Kentucky resident; or

(b) That portion of total adjustments to gross income and total itemized deductions allowed pursuant to KRS 141.010(10) and (11) that Kentucky income bears to total income.

Section 4. Nonresidents. (1) Any net income of a nonresident shall be subject to Kentucky income tax if it is derived from services performed in Kentucky or from property located in Kentucky. Income from sources outside Kentucky shall not be subject to Kentucky income tax. Losses incurred outside Kentucky deductible in computing Kentucky shall not be adjusted gross income.

(2) Except as provided in Section 6 of this administrative regulation for net operating loss deductions, the adjustments to gross income and itemized deductions allowed pursuant to KRS 141.010(10) and (11) shall be limited to that portion of adjustments to gross income and total itemized deductions that Kentucky income bears to total income.

Section 5. Allocation Based Upon Kentucky Income. If a deduction or an adjustment to gross income is allowable based upon the receipt of certain types of income and is limited to a

maximum amount deductible for federal income tax purposes, the Kentucky income used to make the allocation shall be the same type of income used to allow the deduction on the federal return.

Section 6. Net Operating Loss Deduction. An individual resident, a part-year individual resident, or an individual nonresident shall compute the net operating loss deduction using Kentucky income and expenses allowed or allowable on the Kentucky return. (II-6-1; 1 Ky.R. 329; eff. 2-5-1975; Am. 20 Ky.R. 2879; eff. 5-18-94; 32 Ky.R. 2060; 33 Ky.R. 77; eff. 8-7-2006.)